

REMARKS/ARGUMENTS

This response is being filed within three months after the expiry of the shortened statutory period for response, which expired on January 15, 2008. A request for a three-month extension of time is being filed concurrently herewith under separate cover and accordingly, it is submitted that this Response is timely filed.

Claims 1 to 23 are currently pending in the application.

Claims 1 and 13 have been amended to clarify the differences between the present application and the prior art.

Claims 1, 12 and 23 have been amended to address the Examiner's concern raised in item 6 of the Office Action.

Claims 1-3, 6-10, 12-15, 18-21 and 23 rejected under 35 U.S.C. §102(b)

The Examiner has rejected claims 1-3, 6-10, 12-15, 18-21 and 23 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,974,928 (Bloom).

Independent Claims 1 and 13

Bloom discloses a method and system for bulk package delivery and storage wherein orders are collected, cases are shipped, the cases are assembled into packages and the packages are delivered either to a distribution center where the recipient can pick up the package or directly to the recipient. However, it must be noted that in Bloom, orders are collected *before* any products are shipped. This can be seen at col. 8, line 8, and col. 9, lines 66-67 and FIG. 1, step 1100. Bloom describes an elaborate system and method for bulk package delivery but appears not to question the notion that an order must be placed *before* the items are shipped.

In contrast, claims 1 and 13, as amended, recite a method and system for delivering one of a plurality of identical products to a purchaser comprising: transporting the identical products in a delivery circuit, including a plurality of delivery nodes, determining if one of the identical products *being transported within the delivery circuit* has been ordered by a purchaser, once an order has been placed, determining which of the delivery nodes is closest to the purchaser and, once the closest delivery node has been determined, providing the closest one of said identical products to that delivery node, along the delivery circuit, and transporting that identical product from the delivery node to the purchaser. Support can be found at page 7, line 23 to page 8, line 5 and in FIG 2, items 56 and 60 of the application as filed.

It should be noted that claim 1 of the present application relates to a method where the plurality of identical items are already being transported within the delivery circuit when the determination of whether a purchaser has ordered a product is made. The Applicant has amended claims 1 and 13 to clarify this feature and avoid confusion as to the order in which events occur. Once the identical products are in the delivery circuit the existence of an order is determined, the delivery node closest to the purchaser is determined and the identical product closest to that delivery node continues in the circuit until it reaches that delivery node whereupon it is transported to the purchaser.

Accordingly, Bloom does not disclose transporting identical products within a delivery circuit and determining if one of the products already in transit has been ordered, as claimed in the present application. Therefore, Applicant respectfully submits that claims 1 and 13, as amended, are not anticipated by Bloom and are in condition for allowance.

Dependent Claims 2-3, 6-10, 12, 14-15, 18-21 and 23

The Applicant respectfully submits that dependent claims 2-3, 6-10, 12, 14-15, 18-21 and 23 are in condition for allowance by reason of dependency upon allowable independent claims 1 and 13.

Claims 4, 5, 11, 16, 17 and 22 rejected under 35 U.S.C. §103(a)

The Examiner has rejected claims 4, 5, 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Bloom in view of Official Notice. The Applicant respectfully submits that these claims are in condition for allowance by reason of dependency upon allowable independent claims 1 and 13.

The Examiner has rejected claims 11 and 22 under 35 U.S.C. §103(a) as being unpatentable over Bloom in view of Kennedy et al. (U.S. Patent No. 7,085,729). The Applicant respectfully submits that these claims are in condition for allowance by reason of dependency upon allowable independent claims 1 and 13.

Item 6

In Item 6 of the Office Action the Examiner has noted that in claim 1, as filed, if element (b) is not true, then the limitations following element (b) will not hold any weight in the claim and therefore will not be performed. Claims 12 and 23, as filed, were considered to have a similar issue. The Applicant understands this comment to mean that claims 1, 12 and 23, as filed, were considered indefinite and has made a *bona fide* attempt to address this concern via amendment.

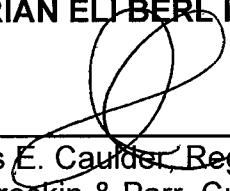
Specifically, the Applicant has amended claim 1 to emphasize that the actions performed in (a) continue at least until (b) is true, whereupon (c) and (d) are

performed as well. In other words, the identical products transit continuously through the delivery circuit until an order is placed, whereupon the product closest to the purchaser's delivery node is directed out of the delivery circuit to the purchaser. Similar amendments have been made to claims 12 and 23. Accordingly, the Applicant respectfully submits that claims 1, 12, and 23 are now in condition for allowance.

In view of the foregoing, the Applicant respectfully submits that the application is now in condition for allowance. If the Examiner believes that a telephone interview would expedite allowance of the application, the Examiner is respectfully requested to contact the undersigned at (416) 957-1680.

Respectfully submitted,

BRIAN ELI BERLILLION



Isis E. Caulder, Reg. No. 47,275
Bereskin & Parr, Customer No. 001059
Tel: (416) 957-1680